



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

FRIDAY, THE 25TH DAY OF MARCH 2022

THE HON'BLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

A.Nos.1396 of 2019 and 5653 of 2018

in

C.S.No.137 of 1928

C.S.No.137/1928 :

1. A.Swaminatha Mudaliar
2. Ponnuswami Mudaliar
3. Chinnappa Mudali
4. V.Govindaswami Mudaliar
5. V.Thirunavukkarasu Mudaliar ... Plaintiffs

VS

1. C.Muthuswami Mudali
2. C.Velayuda Mudali
3. C.Chokkalinga Mudali
4. C.Doraiswami Mudali
5. C.Subramania Mudali
6. C.Chinnakannu Mudali
7. C.Govindaraja Mudali
8. C.Ganesa Mudali



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9. V.Ratnavelu Mudali

10. V.Manikkavelu Mudali

11. V.Thangavelu Mudali

12. P.Thangavelu Mudali

13. The Sozhia Vellala Marabhu Dharma
Sangham, by its Secretary C.Chokkalinga Mudali
the 3rd defendant abovenamed.

14. C.Sarangapani Mudaliar *

15. M.Arunachala Mudaliar *

16. C.Singara Mudaliar *

17. A.Govindaswami Mudaliar * ... Defendants

* Defendants 14 to 17 brought on record
in the place of the original 6 to 9 defendants
as per order of court dated 14.12.1928.

A.No.1396 of 2019:

A.A.Manivasagam
S/o.A.V.Arunachalam,
New No.21, Old No.10,
Velayutha Mudali Street,
Nungambakkam, Chennai – 600 034. ...Applicant

Vs

Vyasarpadi Vinayaka Mudaliar Charities
Rep. by its Trustees
No.22, South Mada Street,
Mylapore, Chennai – 600 004. ...Respondent



WEB COPY Application praying that this Hon'ble Court be pleased to direct the respondent to sell to the Petitioner, the land measuring 3630 sq.ft situated at Plot No.11 New No.2 Old No.10, velayutha Mudali Street, Nungambakkam, Chennai 600 034 Mudali Street, Nungambakkam, Chennai 600 034, at the present guide line value as on 09/06/2017 at Rs.4020/- per sq.ft.

A.No.5653 of 2018:

G.Chinthamani
No.6,(Old No.12), Subbarayan Mudali Street,
Nungambakkam, Chennai – 600 034. ...Applicant

Vs

Vyasarpadi Vinayaka Mudaliar Charities
Rep. by its Secretary M.Damodharan,
No.22, South Mada Street,
Mylapore, Chennai – 600 004. ...Respondent

Application praying that this Hon'ble Court be pleased to direct the Respondent to sell to the applicant, the land measuring 3600 sq.ft situated at No.6(old No.12), Subbaraya Mudali Street, Nungambakkam, Chennai 600 034 at the present guide line value as on 09/06/2017 at Rs.5,360/- per sq.ft.

This Application coming on this day before this court for hearing, the

court made the following order:-
<https://hcservices.eco-courts.org/>



WEB COPY A.No.1396 of 2019 has been filed seeking a direction to the respondent to sell to the applicant the land measuring an extent of 3630 sqft., situated at Plot No.11, New No.2, Old No.10, Velayutha Mudali Street, Nungambakkam, Chennai - 600 034 at the present guide line value as on 09.06.2017 at Rs.4020/- per sqft.,

A.No. 5653 of 2018 has been filed seeking a direction to the respondent to sell to the applicant the land measuring an extent of 3600 sqft., situated at No.6 (Old No.12) Subbaraya Mudali Street, Nungambakkam, Chennai-600 034 at the present guideline value as on 09.06.2017 at Rs.5360/- per sqft.,

2. The learned counsel for the applicant/third party submitted that Plot No.23, bearing New No.6, (Old No.12) Subbaraya Mudali Street, Nungambakkam, Chennai - 600 034, was leased out to one Mrs.Rukmani Ammal, who has put up a building in the land. After the demise of her death, her husband C.S.Chakravarthy Aiyangar and her sons succeeded her by way of sale deed dated 15.04.1958 registered as Doc.No.1369 of 1958 on the file of Sub Registrar Office, T.Nagar. Subsequently, they sold the property to the applicant's father, namely, G.Govindarajan. After the demise



of the applicant's parents, the applicant was recognized as a lessee by the respondent. Thereafter, the lease deed expired on 31.08.1997. Therefore, the applicant has requested the respondent/Charities herein to renew the lease from 31.08.1997 and continue to pay the land rent. Ever since then, the applicant has been in possession and enjoyment of the superstructure along with leasehold rights over the land. The respondent has recognized him as a lessee and has been receiving the rent from 1985.

3. He further submitted that the lease deed itself provides for further extension of lease for further period of 50 years on such reasonable rent as may be agreed between the parties by arbitration, but the respondent/Trust has not taken any steps to renew his lease. It is not known as to why some of the lessees are granted extension of lease and some of the lessees like him are not granted the renewal. Therefore, he is entitled to purchase the lease hold land at reasonable value. Hence, the respondent has filed the suit to evict some of the lessees.

4. He further submitted that the respondent has filed Original Suit No. 2 of 2005 against him, which is pending on the file of II Court of Small Causes, Chennai. Subsequently, he filed an application under Section 9 of the Chennai City Tenants Protection Act in M.P.No.1279 of 2005 for



permission to buy the land under his occupation for a price to be fixed by the Court and the same was allowed on 09.10.2009. However, the respondent filed an ejectment appeal against the order passed under Section 9 application filed by the two of the lessees. The Court below remanded the matter to be decided fresh as to whether the lessee is entitled to the benefits conferred under Section 9 of the said Act. Hence, the applicant/third party also filed a petition questioning the maintainability of the suit along with Section 9 petition pending before the II Court of Small Causes, Chennai.

5. He further submitted that the applicant/3rd party has paid the rent at the enhanced rate of Rs.940/-p.m till date. Thereafter, the appeal was heard and disposed of by the Court below remanding the matter to determine fresh as to whether the lessees like him are entitled to get benefits under Section 9 of the Chennai City Tenants Protection Act. This caused delay as it took some years for the ejectment appeal to be disposed of. However, 54 out of 61 lessees are already permitted to buy their lands over which they have put superstructure. They also purchased their lands on the basis of the guideline value prevailing then.

6. He further submitted that the applicant/third party requested the respondent/Trust herein to renew the lease or permit him to buy the land



under his occupation, over which he has put up superstructure and the respondent has been adopting pick and choose and take their own time while dealing with lessees and the respondent has not filed ejectment suits against all the lessees. The applicant's family has been in possession and enjoyment of the lessee hold property for 50 years and they have put up the superstructure and developed the property spending huge sum of money for several years with the fond hope of purchasing the lessee hold land over which their superstructure was built. Hence, if permission is not granted to buy the land, the applicant/third party will be put to great hardship, much inconvenience and irreparable loss. No prejudice would be caused to the respondent if this petition is allowed.

7. Counter affidavit has been filed by the respondent, wherein, it has been stated that the above application has been filed for a direction to the respondent VVM Charities to sell the property situated at Plot No.11, New Door No.21 (Old No.10), Velayutha Mudali Street, Nungambakkam, Chennai - 600 034, measuring an extent of 3690 sqft., to the applicant herein at the present guideline value as on 09.06.2017 at Rs.4020/- per sqft. Originally, the respondent/Charity granted leased to one Mr.E.Krishnamurthy for a period of 50 years. After his demise, it was occupied by one Mrs.Valliammal, who constructed superstructure thereon.



Subsequently, her sister L.R. Pounammal was in possession and after her death, the present applicant herein is in possession of the property. The original lease expired on 31.08.1990. The respondent/Charity had caused a legal notice dated 21.09.2004 and informed the applicant herein that the lease expired on 31.08.1990 itself and he had neither purchased the land nor paid the land rent, thereby, calling upon the applicant herein to pay the rent at the rate of 9% p.a. on the market value of the land, which comes around Rs.25,80,000/- for the land occupied, measuring an extent of 3690 sqft. Hence, the applicant herein is liable to pay Rs.2,32,200/- per year and the applicant had to pay three years' rent which comes to Rs.6,96,600/- and the same should have been paid on or before 30.09.2004 and continue to pay the monthly rent of Rs.19,350/- p.m., failing which immediately suit will be filed against the applicant for recovery thereof. Since the applicant herein had neither paid the arrears of rent as demanded, nor informed his willingness to purchase the land, the respondent/Charity was constrained to issue another legal notice to the applicant on 23.11.2004 reiterating the facts set out in the earlier legal notice, failing which, suit for eviction will be filed against the applicant herein. Having received the notice, the applicant did not bother to settle the arrears of rent and therefore, the respondent/Charity filed the suit for eviction against the applicant herein in Ej.S.No.4 of 2005.



of 2005 for a direction to the respondent/Charity to sell the subject land on the existing guideline value at that point of time i.e. Rs.1,403/- per sqft. and the same was allowed by fixing the land value as Rs.51,77,070/- and the applicant was directed to deposit Rs.25,00,000/- within 3 months, another sum of Rs.20,00,000/- within two months and the balance of Rs.6,77,070/- within two months and in case of default of any of the instalments, the order stands cancelled immediately. Aggrieved by the said order, the applicant herein filed an appeal in CMA.No. 17 of 2009 and the respondent/Charity also preferred an appeal against the said order in CMA.No.18 of 2009. The Appellate Court allowed both the appeals and thereby set aside the order passed in M.P.No.1300 of 2005 and remitted the matter back to the trial court for the purpose of fixing the value for the land in question, on the basis of records available in the Registration Department and on the basis of documentary evidence and also for the purpose of deciding the question as to whether the land belongs to religious institution on the basis of the records. Subsequently, MP.No.1300 of 2005 was dismissed by the trial Court on the ground that the suit property belongs to the Public Religious and Charitable Trust and the same is exempted from the provision of Tamil Nadu City Tenants Protection Act. As against that, Ej.Appeal No.53 of 2018 is pending for consideration. Even though the appeal is pending, the



order granted by the appellate Court also expired. Therefore, the Ejectment

Suit No. 4 of 2005 has been posted for pronouncement of judgment on

16.04.2018. While so, the applicant herein has filed the above application

for direction to sell the land belong to the respondent/Charity to the

applicant herein who is in occupation of the same, at the present guideline

value. The existing value is 33% lesser than the previous guideline value.

The guideline value as on 08.06.2017 is Rs.6,000/- per sqft., which is

equivalent to the market value at that point of time. In the application filed

by another tenant, viz., Mr.R.Palani, this Court declined to allow the

application, since he had sought for a direction to sell the property at the

rate of Rs.4,020/- per sqft., as per the present guideline value, which was

vehemently opposed by the respondent/Charity. Finally, this Court fixed

the earlier guideline value of Rs.6,000/- per sqft., as on 08.06.2017, which

is equivalent to the market value at that point of time. Therefore, the said

Palani should pay a sum of Rs.6,000/- per sqft., and this Court passed an

order directing the respondent/Charity to sell the properties at the rate of

Rs.6,000/- per sqft., by order dated 09.08.2018 in A.No. 4776 of 2017.

Since the respondent/Charities is struggling to collect the rents from the

applicant and an Ejectment Suit has also been filed as against the applicant

herein in the year 2005, which is still pending for consideration, the

respondent/Charities seeks this Court to decide the above application on



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8. Heard both side and perused the materials placed on record.

9. On a perusal of the records, it is seen that originally the respondent/Charities leased out the property in question to one Mr.E.Krishnamurthy for a period of 50 years. After his demise, it was occupied by one Mrs.Valliammal, who constructed superstructure thereon. The learned counsel for the respondent contended that the original lease deed expired on 31.08.1990 and the respondent/Charities had caused a legal notice dated 21.09.2004 and informed the applicant that the lease expired on 31.08.1990 itself and he had neither purchased the land nor paid the land rent, thereby calling upon the applicant to pay the rent at the rate of 9% p.a. on the market value of the property, which comes to around Rs.25,80,000/- for the land occupied, measuring an extent of 3690 sqft. Therefore, the applicant is liable to pay Rs.2,32,200/- per year and the applicant had to pay three years rent, which comes to Rs.6,96,600 and the same should be paid on or before 30.09.2004 and continue to pay the monthly rent of Rs.19,350/- per month, failing which immediately, suit will be filed against the applicant for recovery of money.



10. The learned counsel for the respondent further contended that during the pendency of the ejectment suit, the applicant herein filed an M.P.No.1300 of 2005 for a direction to the respondent/Charity to sell the subject land on the existing guideline value at that point of time at Rs.1403/- per sqft. and the same was allowed by fixing the land value as Rs.51,77,070/- and the applicant was directed to deposit Rs.25,00,000/- within three months, another sum of Rs.20,00,000/- within two months and the balance of Rs.6,77,070/- within two months. Aggrieved by the above order, the applicant filed an appeal in CMA.No. 17 of 2009. Subsequently, the respondent/Charities has preferred an appeal against the said order in CMA.No. 18 of 2009 and the appellate Court allowed both the appeals and thereby set aside the order passed in M.P.No. 1300 of 2005 and remitted the matter back to the trial Court for the purpose of fixing the value for the land in question on the basis of records available in the Registration Department and on the basis of documentary evidence for the purpose of deciding the question as to whether the land belongs to religious institution on the basis of the records. Therefore, M.P.No. 1300 of 2005 was dismissed by the trial Court on the ground that the suit property belongs to the Public Religious and Charitable Trust and the same is exempted from the provisions of the Chennai City Tenants Protection Act. Aggrieved by the same, Ejectment



for the respondent contended that, even though the appeal is pending, the trial Court has taken a view that there is no stay in the Ejectment Appeal and the stay order granted by the Appellate Court also expired. While so, the applicant has filed the above application for direction to sell the land belonging to the respondent/Charity to the applicant who is in occupation of the same. He further contended that the existing value is 33% lesser than the previous guideline value and the guideline value as on 08.06.2017 was Rs.6000/- per sqft., which is equivalent to the market value at that point of time.

11. The learned counsel for the respondent further contended that the applicant had sought for a direction to sell the property at the rate of Rs.4020/- per sqft. as per the present guideline value, which was also vehemently opposed by the respondent/Charities and this Court fixed the earlier guideline value of Rs.6000/- per sqft., as on 08.06.2017 which is equivalent to the market value at that point of time. Therefore, this Court passed an order directing the respondent charities to sell the properties at the rate of Rs.6,000/- per sqft., by order dated 09.08.2018 in A.No. 4776 of 2017.



the respondent, this Court is of the view that both the applications have no merits and hence, this Court is not inclined to allow these applications.

13. Accordingly, both the applications are dismissed. No order as to costs.

Sd./-VBSJ.

25/03/2022

//Certified to be true copy//

Dated at Madras this the day of 2022.

COURT OFFICER(O.S.)

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EVK 15/06/2022